

Flanagan, Sarah

From: Flanagan, Sarah
Sent: Tuesday, March 24, 2015 6:55 PM
To: Justin Boyd; RAY REOTT
Cc: Kathryn Kilgore
Subject: RE: Clifton Access Agreement
Attachments: cert_5_2199900_1.pdf; Lockheed Martin Insurance explanation.pdf

Justin and Ray,

With apologies for the long delay, I am back in touch with you as EPA is close to finalizing our sampling plan for the Givaudan containment cell adjacent to IIT's property.

Attached is the revised certificate of insurance provided by Lockheed, showing their umbrella policy, as well as an email from Chris Gussman, Lockheed Martin Task Leader for this work, explaining the coverage for "sudden and limited pollution" under Lockheed's insurance. Please let me know if you have any questions.

-Sarah

Sarah P. Flanagan
Office of Regional Counsel, NJ Superfund Branch
USEPA, Region 2
290 Broadway, 17th Floor
New York, NY 10007
Tel: 212-637-3136

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review of, reliance on, or distribution by others or forwarding without the express permission of the sender is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.

From: Justin Boyd [mailto:jboyd@blackcreekcapital.com]
Sent: Wednesday, October 15, 2014 4:31 PM
To: Flanagan, Sarah; RAY REOTT
Cc: Kathryn Kilgore
Subject: RE: Clifton Access Agreement

Sarah,

The additional insured name should be:

IIT Clifton DC LLC
c/o Industrial Income Trust Inc.
518 17th Street, Suite 1700
Attn: Real Estate Counsel
Denver, CO 80202

Upon receiving the revised certificate and written statement from Lockheed, we will review with our risk/insurance folks.

Thanks,

Justin

Justin Boyd
Real Estate Counsel
Black Creek Group | Dividend Capital Group
518 17th Street, 17th Floor | Denver, CO 80202
Main: 303.869.4600 | Direct: 303.953.3840 |
Email: jboyd@blackcreekcapital.com

From: Flanagan, Sarah [<mailto:Flanagan.Sarah@epa.gov>]
Sent: Wednesday, October 15, 2014 2:24 PM
To: RAY REOTT
Cc: Justin Boyd; Kathryn Kilgore
Subject: RE: Clifton Access Agreement

Ray,

The marked survey you provided will work well as Exhibit A. Thank you.

We spoke with Lockheed Martin this morning about its insurance coverage. Lockheed will revise its Certificate of Insurance to show \$8 million in excess coverage which sits above the Commercial General Liability. With respect to Contractor's Pollution Liability, Lockheed Martin explained that their CGL coverage has an extension for "sudden and accidental" releases, but they do not carry Contractor's Pollution Liability because they do not contract to perform remedial or cleanup work. We asked Lockheed to provide a written statement to this effect. I modified the consent to access form to reflect that Lockheed is not carrying Contractor's Pollution Liability coverage.

When Lockheed reissues the Certificate of Insurance, what name and address should it use for IIT? Apologies if you already provided this information to EPA.

Regards,
-Sarah

Sarah P. Flanagan
Office of Regional Counsel, NJ Superfund Branch
USEPA, Region 2
290 Broadway, 17th Floor
New York, NY 10007
Tel: 212-637-3136

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review of, reliance on, or distribution by others or forwarding without the express permission of the sender is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.

From: RAY REOTT [<mailto:RAY.REOTT@bfkn.com>]
Sent: Wednesday, October 08, 2014 6:23 PM
To: Flanagan, Sarah
Cc: Justin Boyd (jboyd@blackcreekcapital.com); Kathryn Kilgore (kkilgore@industrialincome.com); RAY REOTT
Subject: Clifton Access Agreement

Sarah – happy to work with you in place of Leena. I have attached a marked survey to show the approximate location of the gate to the Givaudan cell as well as the proposed portion of the property to which IIT would grant access. If you need to propose a different area, I also have attached the unmarked survey for you to use.

As I noted in my last e-mail to Leena, it appears as if the USEPA contractor has some gaps in its coverage. I would expect them to have Contractor's Pollution Liability coverage, otherwise there is normally no coverage in the liability policy for environmental damages. Also, the certificate did not show any excess coverage. This must also be an oversight as I am sure they have ample excess coverage that could be added to the certificate. Can you check on both of these items?

Thanks, Ray

Raymond T. Reott
Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison Street
Suite 3900
Chicago, Illinois 60606
312-629-7427
raymond.reott@bfkn.com

This message, which contains information from a law firm, may be confidential and privileged. If you have received this communication in error (you are not the addressee or authorized to receive for the addressee), you may not use, copy or disclose the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message.

Any tax advice contained in this email or document was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under the Internal Revenue Code of 1986, as amended.